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September 1, 2023

**Via E-mail: exsec@ios.doi.gov; Deb_Haaland@ios.doi.gov
and FedEx Overnight Delivery**

The Honorable Deb Haaland
Secretary
U.S. Department of Interior
1849 C Street N.W.
Washington, D.C. 20240

**Via E-mail: fws_director@fws.gov; Martha_Williams@fws.gov
and Via FedEx Overnight Delivery**

Martha Williams
Director
U.S. Fish and Wildlife Service
1849 C Street N.W.
Washington, D.C. 20240

**Re: Chaves County, New Mexico's 60-Day Notice of Intent to Sue regarding
Decision to List the Lesser Prairie-Chicken as Threatened and Endangered 87
Fed. Reg. 72674 (Nov. 25, 2022)**

Dear Secretary Haaland and Director Williams:

Our firm represents Chaves County, New Mexico (“**Chaves County**”). On November 25, 2022, the U.S. Fish and Wildlife Service and the U.S. Department of Interior (collectively referred to hereafter as the “**Service**”) announced their decision to list the Lesser Prairie Chicken (“**LPC**”) as “Endangered” and “Threatened” throughout two regions in a final rule published in Volume 87, No. 226, Page 72674 of the Federal Register (“**LPC Rule**”). In light of this decision, Chaves County hereby announces and provides this 60-day notice of its intent to sue the Service for violating the Endangered Species Act (“**ESA**”), 16 U.S.C. §§ 1531 *et seq.*, and its implementing regulations, as well as the Administrative Procedure Act (“**APA**”), 5 U.S.C. §§ 551 *et seq.* The Service’s ESA listing decision materially affects and prejudices Chaves County and its constituents’ interests and operations.

A. Chaves County, New Mexico

Chaves County is a county in New Mexico. It has allocated significant resources to the conservation of the LPC, including working with the Bureau of Land Management (“**Bureau**”) in

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a land exchange specifically designed to allow the Bureau to actively manage populations of the LPC. The listing of the LPC under the ESA adversely affects the Chaves County community, industries, and people who are located within, reside, ranch, farm, and use the public and private lands in Chaves County. Chaves County has significant levels of agriculture and oil and gas production. The LPC Rule will adversely affect these industries and Chaves County's economic health and vitality.

B. Violations of the Endangered Species Act and Administrative Procedure Act

In a letter to you dated January 19, 2023, the Permian Basin Petroleum Association (“**PBPA**”), the National Cattlemen’s Beef Association (“**NCBA**”), the Texas Cattle Feeder’s Association (“**TCFA**”), the Kansas Livestock Association (“**KLA**”), the Oklahoma Cattlemen’s Association (“**OCA**”), and the New Mexico Cattle Growers’ Association (“**NMCGA**”) (the TCFA, KLA, OCA and NMCGA are collectively referred to herein as the “**Livestock Associations**”) notified you of their intent to sue the Service and outlined numerous ways in which the LPC Rule violates the APA, the ESA, and the Services own policies. Chaves County adopts and joins in that January 19, 2023 letter from the PBPA, the NCBA and Livestock Associations.

This letter provides notice that Chaves County intends to file suit against the Service for violating the ESA, the APA, and its own policies, as outlined above. If the Service does not remedy these violations within 60 days, Chaves County will initiate litigation in federal district court against the Service concerning these violations, seeking all available relief, including declaratory relief, attorneys’ fees and court costs.

Thank you for your prompt attention to this matter.

Sincerely,



Jeff Kuhnhen
Derek Montgomery
On Behalf of Chaves County, New Mexico

CC: Katie Schroder (e-mail);
Cook, Caitlyn (e-mail);
Broker, Peter (e-mail).